

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TIMOTHY ROSS MILLER,

Plaintiff,

V.

## THURSTON COUNTY; NICOLAS

ANDERSEN; JOEL NAULT,

Defendant.

Case No. 3:23-cv-05745-TMC

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

## I. INTRODUCTION

On September 17, 2020, Plaintiff Timothy Miller called the Thurston County Sheriff's Office, requesting assistance after an argument between Mr. Miller and his wife Molly Miller turned violent. Thurston County Deputies Nicolas Andersen and Joel Nault arrived on the scene. The Officers questioned Mr. Miller outside. Mr. Miller conceded that he and his wife had thrown things at each other, and, when she tried to end the fight with a hug, he had pushed her. Upon entering the home, the Officers saw that a baby gate had been ripped off its hinges, a computer monitor was cracked open, pieces of a broken TV stand were strewn about, a coffee table had been flipped over, and holes were punched in the walls. Ms. Miller confirmed that Mr. Miller was responsible. She also corroborated Mr. Miller's admission that he had pushed her.

1           The Officers arrested Mr. Miller and charged him with assault in the fourth degree  
2 (domestic violence) and malicious mischief in the third degree (domestic violence). They also  
3 issued a No Contact Domestic Violence Order, which Mr. Miller violated twice. Mr. Miller  
4 ultimately pleaded guilty to violating the No Contact Order. In exchange, the Thurston County  
5 Prosecuting Attorney's Office dropped the charges against Mr. Miller for assault and malicious  
6 mischief. Shortly thereafter, Mr. Miller filed this case. He alleges that the Officers and Thurston  
7 County violated his First, Second, Fourth, and Fourteenth Amendment rights. He claims false  
8 arrest, unlawful detainment, falsification of a police report, malicious prosecution, and removal  
9 of firearm rights.

10           The Constitution protects individuals from unreasonable search and seizure. Undergoing  
11 arrest and detention when a person has done nothing unlawful causes the arrestee real harm. For  
12 this reason, to arrest someone without a warrant, officers must have probable cause. When  
13 officers have probable cause, their decision to make an arrest does not violate the Constitution.  
14 Here, officers had probable cause to arrest Mr. Miller. He conceded that his argument with  
15 Ms. Miller turned physical; officers entered the home to find broken items everywhere and holes  
16 punched in the wall; and Ms. Miller confirmed that Mr. Miller had thrown items at her and  
17 pushed her. Together, these facts created probable cause for arrest and prosecution. Mr. Miller  
18 has provided no evidence that this information—or any information contained in the police  
19 report—was falsified. Accordingly, the Court GRANTS Defendants Thurston County, Nicolas  
20 Andersen, and Joel Nault's motion for summary judgment (Dkt. 38).

## 21           II.     BACKGROUND

22           On September 17, 2020, Mr. Miller called the Thurston County Sheriff's Office, alleging  
23 a domestic violence incident. Dkt. 39-1 at 6. Thurston County Deputy Nic Andersen responded  
24 to the call and Deputy Joel Nault arrived to assist soon after. *Id.*; Dkt. 38 at 2. Mr. Miller

1 answered the door. Dkt. 39-1 at 6. He stepped outside and spoke to the Officers. *Id.* Mr. Miller  
 2 told Deputy Andersen that the Millers were in the process of divorcing. *Id.* They had been  
 3 discussing the details of their separation when they began fighting. *Id.* Mr. Miller explained that  
 4 he threw food at Ms. Miller and she had responded by throwing a plastic jug of water at him. *Id.*  
 5 He conceded that he had thrown other “stuff.” *Id.* Mr. Miller also told Deputy Andersen that  
 6 Ms. Miller had tried to hug him, and he had pushed her away, injuring her arm. *Id.*

7 Deputy Andersen left Mr. Miller with another officer (Deputy Moore) and went into the  
 8 residence. *Id.* Inside, Deputy Andersen observed “broken items strewn all over the floor,”  
 9 including a broken TV stand and a cracked computer monitor. *Id.* at 6–7. The coffee table had  
 10 been flipped over. *Id.* at 6. There were “several holes punched in the bedroom walls, [and a]  
 11 black baby gate ripped off its hinges.” *Id.* at 7. Deputy Andersen found Ms. Miller “sobbing[,]”  
 12 “curled up with her knees to her chest and back against the wall.” *Id.* Ms. Miller confirmed that  
 13 Mr. Miller had thrown several items at her, including the TV and TV stand. *Id.* She told Deputy  
 14 Andersen that Mr. Miller had flipped the coffee table over and ripped the baby gate off its  
 15 hinges. *Id.* Ms. Miller also confirmed that Mr. Miller had pushed her. *Id.* She told Deputy  
 16 Andersen that she had been “begging him to stop fighting and trying to apologize while  
 17 attempting to hug him” when he “grabbed [her] by the arm and pushed her.” *Id.*

18 After gathering this information, Deputy Andersen and Deputy Nault “determined . . .  
 19 there was probable cause for Assault 4<sup>th</sup> degree Domestic Violence (DV) and Malicious Mischief  
 20 3<sup>rd</sup> Degree DV.” *Id.* The officers left the residence and placed Mr. Miller, still waiting outside,  
 21 under arrest. *Id.*

22 After transporting Mr. Miller to the Thurston County jail, Deputy Andersen returned to  
 23 the home. *Id.* He obtained a witness statement from Ms. Miller. *Id.* Ms. Miller, still fearful, asked  
 24 Deputy Andersen, “You told him I didn’t want him arrested right?” *Id.* Ms. Miller expressed fear

1 that Mr. Miller would “kill her if he thought she wanted him arrested.” *Id.* Ms. Miller described  
2 several other incidences in which Mr. Miller had threatened her with physical violence. *Id.* at 8.  
3 Deputy Andersen documented the scene, taking pictures of the broken items. *Id.* He confirmed  
4 that Mr. Miller had thrown the items at Ms. Miller. *Id.* He found a broken CD case on the floor  
5 and asked Ms. Miller if Mr. Miller had thrown it at her. *Id.* at 8. She confirmed that he had, and,  
6 had she not ducked in time, it would have hit her. *Id.* Deputy Andersen concluded that there was  
7 further “probable cause for Assault 4<sup>th</sup> degree DV due to this evidence.” *Id.* Before leaving, he  
8 advised Ms. Miller to seek a protection order. *Id.*

9 On September 21, 2020, Thurston County Deputy Prosecutor Alexis Egolf filed a  
10 criminal complaint charging Mr. Miller with Assault 4th Degree/Domestic Violence and  
11 Malicious Mischief 3rd Degree/Domestic Violence. Dkt. 39-2 at 2. Alongside the complaint, the  
12 Thurston County Prosecutor submitted a Domestic Violence No Contact Order. *See* Dkt. 39-3 at  
13 2; Dkt. 38 at 3. The Order prohibited Mr. Miller from contacting Ms. Miller or coming within  
14 1,000 feet of her “residence, school, workplace and person.” Dkt. 39-3 at 2. Mr. Miller violated  
15 the Order on two separate occasions. Dkt. 39-4 at 2. Mr. Miller was then charged with two  
16 counts of Violation of a Domestic Violence Protection Order. *Id.*

17 Mr. Miller pleaded guilty to two counts of Violation of a Domestic Violence Protection  
18 Order. *Id.* In exchange, the Prosecuting Attorney’s Office agreed to dismiss the Assault and  
19 Malicious Mischief charges. Dkt. 38 at 3–4. As part of his guilty plea, Mr. Miller agreed both to  
20 undergo a domestic violence treatment course and to give up his right to possess firearms. *Id.*;  
21 *see also* Dkt. 39-4 at 3–4.

22 On August 18, 2023, Mr. Miller filed this lawsuit against Thurston County, also naming  
23 Deputies Andersen and Nault as Defendants. Dkt. 3 at 1–2. Mr. Miller claims violations of his  
24 First, Second, Fourth, and Fourteenth Amendment Rights. *Id.* at 3. On August 22, 2024,

1 Defendants moved for summary judgment on all claims. Dkt. 38. Plaintiff responded on  
 2 September 15, 2024. Dkt. 47. The motion is ripe for this Court's review.

### 3 III. DISCUSSION

#### 4 A. Legal Standard

5 "The court shall grant summary judgment if the movant shows that there is no genuine  
 6 dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R.  
 7 Civ. P. 56(a). The moving party is entitled to judgment as a matter of law when the nonmoving  
 8 party fails to make a sufficient showing on an essential element of a claim in the case on which  
 9 the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1985).  
 10 A dispute as to a material fact is genuine "if the evidence is such that a reasonable jury could  
 11 return a verdict for the nonmoving party." *Villiarimo v. Aloha Island Air, Inc.*, 281 F.3d 1054,  
 12 1061 (9th Cir. 2002) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

13 The evidence relied upon by the nonmoving party must be able to be "presented in a form  
 14 that would be admissible in evidence." See Fed. R. Civ. P. 56(c)(2). "An affidavit or declaration  
 15 used to support or oppose a motion must be made on personal knowledge, set out facts that  
 16 would be admissible in evidence, and show that the affiant or declarant is competent to testify on  
 17 the matters stated." Fed. R. Civ. P. 56(c)(4); see also Fed. R. Evid. 602 ("A witness may testify  
 18 to a matter only if evidence is introduced sufficient to support a finding that the witness has  
 19 personal knowledge of the matter. Evidence to prove personal knowledge may consist of the  
 20 witness's own testimony."). Conclusory, nonspecific statements in affidavits are not sufficient,  
 21 and "missing facts" will not be "presume[d]." *Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 889  
 22 (1990). However, "[t]he evidence of the nonmovant is to be believed, and all justifiable  
 23 inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014) (per curiam)  
 24 (quoting *Anderson*, 477 U.S. at 255). Consequently, "a District Court must resolve any factual

1 issues of controversy in favor of the non-moving party only in the sense that, where the facts  
 2 specifically averred by that party contradict facts specifically averred by the movant, the motion  
 3 must be denied.” *Lujan*, 497 U.S. at 888 (internal quotations omitted).

4 **B. Officers had probable cause to arrest Mr. Miller.**

5 Mr. Miller claims that Defendant Officers violated his Fourth and Fourteenth  
 6 Amendment rights when they wrongfully arrested and detained him for approximately twenty  
 7 hours. Dkt. 3 at 5. Mr. Miller also claims that Defendants falsified information in their reports,  
 8 leading to unsupported criminal charges against him that violated his Fourth Amendment rights.  
 9 *Id.* at 5–6. Defendants argue that they are entitled to summary judgment because the Officers  
 10 have provided unrefuted evidence that they had probable cause to arrest Mr. Miller and support  
 11 the charges against him. Dkt. 38 at 7–12.

12 “Arrest by police officers without probable cause violates the Fourth Amendment’s  
 13 guarantee of security from unreasonable searches and seizures, giving rise to a claim for false  
 14 arrest under § 1983.” *Caballero v. City of Concord*, 956 F.2d 204, 206 (9th Cir. 1992). “To  
 15 prevail on [a] § 1983 claim for false arrest” and imprisonment, the plaintiff must “demonstrate  
 16 that there was no probable cause to arrest him.” *Norse v. City of Santa Cruz*, 629 F.3d 966, 978  
 17 (9th Cir. 2010) (en banc) (quoting *Cabrera v. City of Huntington Park*, 159 F.3d 374, 380 (9th  
 18 Cir. 1998) (per curiam)).

19 Probable cause exists where “the facts and circumstances within the officers’ knowledge  
 20 and of which they had reasonably trustworthy information were sufficient to warrant a prudent  
 21 man in believing that the plaintiff had committed or was committing an offense.” *Hart v. Parks*,  
 22 450 F.3d 1059, 1065–66 (9th Cir. 2006) (quoting *Bailey v. Newland*, 263 F.3d 1022, 1031 (9th  
 23 Cir. 2001)) (internal alterations omitted); *see also Grant v. City of Long Beach*, 315 F.3d 1081,  
 24 1085 (9th Cir. 2002) (“Probable cause exists when under the totality of circumstances known to

1 the arresting officers, a prudent person would have concluded that there was a fair probability  
2 that the defendant had committed a crime.” (cleaned up)).

3 Defendant Officers had probable cause to arrest Mr. Miller for violating RCW  
4 9A.36.041, assault in the fourth degree. Under Washington law, a “person is guilty of assault in  
5 the fourth degree if . . . he or she assaults another.” RCW 9A.36.041(1). Washington law does  
6 not define “assault” in statute. *State v. Stevens*, 158 Wn. 2d 304, 310–11, 143 P.3d 817 (2006).  
7 Rather, Washington courts apply the common law definitions. *Id.* Washington courts recognize  
8 three definitions of assault: “(1) an attempt, with unlawful force, to inflict bodily injury upon  
9 another; (2) an unlawful touching with criminal intent; and (3) putting another in apprehension of  
10 harm whether or not the actor intends to inflict or is incapable of inflicting that harm.” *Id.*

11 Here, Defendant Officers had probable cause to believe that Mr. Miller had assaulted  
12 Ms. Miller. First, Mr. Miller himself conceded to having thrown “stuff” at Ms. Miller. Dkt. 39-1  
13 at 6. Second, Mr. Miller conceded to having pushed Ms. Miller. *Id.* And Ms. Miller corroborated  
14 both statements. *Id.* at 7. She confirmed that Mr. Miller was responsible for the destruction of  
15 various items in the home. *Id.* This evidence is enough that “a prudent person would have  
16 concluded that there was a fair probability” that Mr. Miller had committed the crime of assault in  
17 the fourth degree. *See Grant*, 315 F.3d at 1085. A reasonable officer could conclude that Mr.  
18 Miller intended to create apprehension of harm in Ms. Miller or to inflict injury upon her. Thus,  
19 Defendant Officers’ decision to arrest and initiate charges for assault against Mr. Miller did not  
20 violate the Fourth Amendment.

21 Officers also had probable cause to arrest Mr. Miller for violating RCW 9A.48.090,  
22 malicious mischief in the third degree. Under Washington law, a person is guilty of malicious  
23 mischief in the third degree if they “[k]nowingly and maliciously cause[] physical damage to the  
24 property of another, under circumstances not amounting to malicious mischief in the first or

1 second degree[.]” RCW 9A.48.090(1)(a). When Defendant Officers entered the Millers’ home,  
2 they saw various broken items strewn about. Dkt. 39-1 at 6–7. Ms. Miller confirmed that  
3 Mr. Miller was responsible for throwing and breaking the items. *Id.*

4 This evidence establishes probable cause to believe Mr. Miller had committed the crime  
5 of malicious mischief. The Officers’ decision to arrest Mr. Miller, leading to the charges against  
6 him, did not violate the Fourth Amendment.

7 Both offenses were also charged as domestic violence crimes. Under Washington state  
8 law, selected crimes are domestic violence when “committed either by (a) one family or  
9 household member against another family or household member, or (b) one intimate partner  
10 against another intimate partner[.]” RCW 10.99.020. That list of crimes includes assault in the  
11 fourth degree and malicious mischief in the third degree. RCW 10.99.020(iv), (xiv). “Intimate  
12 partner” is defined to include spouses. RCW 10.99.020(8)(a).

13 At the time of the incident, the Millers were legally married. *See* Dkt. 39-1 at 6. Both  
14 Mr. and Mrs. Miller conceded that they were arguing. *Id.* at 6–7. Mr. Miller admitted to pushing  
15 Mrs. Miller and throwing items at her. *Id.* at 6. Mrs. Miller affirmed these statements. *Id.* at 7.  
16 And she added that Mr. Miller had damaged multiple items in the house, including ripping the  
17 baby gate off its hinges, flipping the coffee table, breaking the computer monitor screen, and  
18 punching holes in the walls. *Id.*

19 Defendant Officers thus had probable cause to arrest Mr. Miller and treat the suspected  
20 crimes as domestic violence. Mr. Miller has provided no admissible evidence to raise a question  
21 of fact as to the truth of any of element of the Officers’ report. *See generally* Dkt. 47. He does  
22 not refute any of the statements made in the report. *See generally id.* Rather, he argues that these  
23 are all “false accusations” and quarrels with verbiage and language used in both the police report  
24 and a later written Field Training Program report. *See, e.g.,* Dkt. 47 at 3–7. He claims that “[t]he

1 female on the scene was immediately the victim and Deputy Nault had likely determined that  
2 prior to his arrival to the residence. If a different deputy had arrived at the scene, there is extreme  
3 unlikelihood that this would have occurred in the manner it did.” *Id.* at 7. Mr. Miller does not  
4 provide any evidence to support this statement. If anything, the statement is contradicted by the  
5 Field Training Program report, which admonishes Deputy Andersen for not recognizing signs of  
6 domestic violence more quickly. Dkt. 47 at 20.

7 Further, as discussed below, the discrepancies between the police report and Field  
8 Training Program report are minimal and a natural product of the differences between the  
9 documents; one is a police report, the other is an internal review of Deputy Andersen’s actions  
10 on the scene. *See infra* Sec. III.D.

11 Mr. Miller has not pointed to any evidence that would show Defendant Officers lacked  
12 probable cause to arrest him, nor that their decisions were the result of any bias. For these  
13 reasons, Mr. Miller’s Fourth and Fourteenth Amendment claims must be dismissed.

14 **C. Mr. Miller has failed to provide evidence that his Second Amendment rights were  
violated.**

15 Mr. Miller alleges that Defendants violated his Second Amendment rights by barring him  
16 from owning a firearm. Dkt. 3 at 3, 6. Mr. Miller was first charged with assault and malicious  
17 mischief. Dkt. 39-2 at 2. A Domestic Violence No Contact Order was then also issued. Dkt. 39-3  
18 at 2–3. He later violated the No Contact Order twice. Dkt. 39-4 at 2. Mr. Miller ultimately  
19 pleaded guilty to violating the No Contact Order, and in turn, the remaining charges against him  
20 were dropped. *Id.* at 2–3. When Mr. Miller pleaded guilty to violating the No Contact Order, he  
21 lost his right to possess a firearm. *Id.* at 4.

22 First, as a threshold matter, for an officer to be liable under Section 1983 “there must be a  
23 showing of personal participation in the alleged rights deprivation.” *Jones v. Williams*, 297 F.3d  
24

1 930, 934 (9th Cir. 2002); *see also Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (requiring  
 2 personal participation in the alleged constitutional violations). Mr. Miller has not offered any  
 3 evidence that the Defendants participated in the events that led to him being charged with and  
 4 convicted of violating the No Contact Order. It was that conviction—not the initial arrest by the  
 5 Defendants here—that led to Mr. Miller’s indefinite loss of his right to possess a firearm.  
 6 Because the officers did not personally participate in causing this loss, they cannot be held liable  
 7 under Section 1983.

8 Second, even had the Officers personally participated in the process, Mr. Miller has not  
 9 been deprived of his rights. Though the Second Amendment protects an individual’s right to bear  
 10 arms, an individual may lose their right to possess a gun if convicted of a crime. *United States v.*  
 11 *Castleman*, 572 U.S. 157, 159 (2014). In *Castleman*, the Supreme Court upheld a federal law  
 12 prohibiting individuals convicted of a misdemeanor crime of domestic violence from ever  
 13 possessing a firearm. *Id.* (“Recognizing that firearms and domestic strife are a potentially deadly  
 14 combination, . . . Congress has forbade the possession of firearms by anyone convicted of a  
 15 misdemeanor crime of domestic violence.”) (cleaned up). The Ninth Circuit later upheld a  
 16 California law that prohibited the possession of a firearm following a misdemeanor domestic  
 17 conviction even after the individual’s conviction was vacated. *Fortson v. Los Angeles City*  
 18 *Attorney’s Off.*, 852 F.3d 1190, 1194 (9th Cir. 2017). These kinds of restrictions comport with  
 19 the history, practice, and purpose of the Second Amendment. *See United States v. Chovan*, 735  
 20 F.3d 1127, 1138 (9th Cir. 2013). As the Ninth Circuit has explained, the “core of the Second  
 21 Amendment is ‘the right of law-abiding, responsible citizens to use arms in defense of hearth and  
 22 home.’” *Id.* (quoting *Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008)). A citizen who  
 23 breaks the law may lose this right. *See id.*

Under RCW 10.99.020(4)(xviii), violating a No Contact Order is a domestic violence crime. Mr. Miller pleaded guilty to violating the No Contact Order. Mr. Miller's loss of his right to possess a firearm when he entered his guilty plea did not violate the Second Amendment.

**D. Mr. Miller has also failed to provide evidence that his First Amendment rights were violated.**

Mr. Miller also claims that his First Amendment rights were violated when "OFC Andersen falsified a police report to support his decision to falsely arrest the plaintiff, using his own desired verbiage in place to incriminate the plaintiff." Dkt. 3 at 5. The First Amendment restricts the government from infringing on individuals' freedom of speech, religion, press, assembly, and petition. U.S. Const. amend. I. The First Amendment does not, however, protect against the possible falsification of a police report. If a police officer writes a false report, it may violate an individual's constitutional rights. *See, e.g., Hall v. City of Los Angeles*, 697 F.3d 1059, 1066 (9th Cir. 2012) ("[D]efendants enjoy a constitutional right to be free from prosecution based on deliberately fabricated evidence."). But a falsified report would violate the Fourteenth Amendment's Due Process Clause or the Fourth Amendment's protection against unreasonable seizures, not the First Amendment. *See id.* at 1068 (fabrication of evidence could constitute a Fourteenth Amendment violation); *see also Galbraith v. Cnty. of Santa Clara*, 307 F.3d 1119, 1126 (9th Cir. 2002) (falsification of report which led to petitioner's incarceration adequately alleged a Fourth Amendment violation).

And Mr. Miller has provided no evidence that the report was falsified. In his response to Defendants' motion for summary judgment, Mr. Miller points to a Field Training Program narrative as evidence that the police report was falsified. Dkt. 47 at 2. Mr. Miller is correct that the narrative shows that Deputy Andersen was in training, and Mr. Miller rightly points out that

1 this information is missing from the police report. *Id.* Mr. Miller also points out several  
2 differences in the narrative and the report. *Id.* at 2–3.

3 Yet these discrepancies are not material conflicts between the two documents, nor are  
4 they evidence that the police report was falsified. Rather, they stem from differences between the  
5 kinds of documents. The police report is an official document, explaining in depth what occurred  
6 at the scene. *See generally* Dkt. 39-1. The Field Training Program narrative is an internal tool  
7 used to evaluate a deputy’s techniques. Dkt. 47 at 20; Dkt. 48 at 2. The Field Training Program  
8 narrative also does not conflict with the police report. *See* Dkt. 47 at 20. Rather the narrative  
9 indicates that there was strong evidence of domestic violence—so much evidence that Deputy  
10 Andersen was admonished for not arriving at the conclusion that there was probable cause for a  
11 domestic violence arrest sooner. *Id.*

12 Thus, Mr. Miller has provided no evidence that the police report was falsified. His First  
13 Amendment claim fails as a matter of law. Any related Fourth or Fourteenth Amendment claims  
14 similarly fail.

15 **E. Because there was probable cause, Thurston County is absolved of municipal  
liability.**

16 Defendant Officers also claim qualified immunity from suit, and Thurston County argues  
17 that Mr. Miller has presented no evidence to support municipal liability under Section 1983.  
18 Dkt. 38 at 13–16. As to the individual officers, because probable cause existed and no  
19 constitutional violation occurred, the Court need not address the Officers’ qualified immunity  
20 arguments.

21 As to the liability of Thurston County, municipal liability depends on the grounds laid out  
22 in *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 694–95 (1978).  
23 Under *Monell*, a municipality can be held liable under 42 U.S.C. § 1983 for constitutional  
24

1 violations when the violation was caused by a policy or custom of the municipality. *Id.* But “an  
2 individual may recover under § 1983 only when his federal rights have been violated.”  
3 *Quintanilla v. City of Downey*, 84 F.3d 353, 355 (9th Cir. 1996). If there is no underlying  
4 constitutional violation, there can be no municipal liability. *City of Los Angeles v. Heller*, 475  
5 U.S. 796, 799 (1986) (“If a person has suffered no constitutional injury at the hands of the  
6 individual police officer, the fact that the departmental regulations might have *authorized* the use  
7 of constitutionally excessive force is quite beside the point.”).

8 Again, as discussed above, Mr. Miller has failed to provide evidence of any constitutional  
9 violation. Because Mr. Miller has failed to show an underlying constitutional violation, there is  
10 no basis for liability for Defendant Thurston County under *Monell*.

#### 11 IV. CONCLUSION

12 For the foregoing reasons, the Court GRANTS Defendants’ Motion for Summary  
13 Judgment. The case is dismissed with prejudice.

14 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
15 to any party appearing pro se at said party’s last known address.

16 Dated this 14th day of November, 2024.

17   
18 \_\_\_\_\_  
19 Tiffany M. Cartwright  
20 United States District Judge  
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24